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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,399	01/14/2000	Michael L. Trompower	TELNP200US	8324

23623 7590 05/18/2004

AMIN & TUROCY, LLP  
1900 EAST 9TH STREET, NATIONAL CITY CENTER  
24TH FLOOR,  
CLEVELAND, OH 44114

EXAMINER
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MEHRPOUR, NAGHMEH

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/483,399

Applicant(s)

MICHAEL L. TROMPOWER

Examiner

Naghmeh Mehrpour

Art Unit

2686

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: please see the attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: 3 and 22.

Claim(s) rejected: 1-2, 4-21, 23-35.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

*Charles Appiah* 5/14/04  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**

**DETAILED ACTION*****Response to Arguments***

In response to the applicant's argument that "Paatelma does not disclose or suggest means for determining transmission power levels of a first and the second portion....as recited in claim 32.

The Examiner states that Paatelma teaches a cellular communication system (col 3 lines 60-67, col 4 lines 1-6) comprising: means for transmitting a data packet having a first portion (header, col 5 lines 2-18) and a second portion (data portion) (col 2 lines 34-54); and means for dynamically adjusting the transmission power level of the first portion (header) with respect to the second portion (data) of the data packet coupled to the means for transmitting a data packet having a first portion and a second portion (col 5 lines 2-18).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Paatelma teaches a communicating system wherein the power control module receives the power data packet and dynamically control the transmission power of the first portion and the

second portions, Paatelma fails to teach the power control module includes power amplifier. However Fischer teaches a system/unit wherein the power control module includes a transmission power amplifier (col 3 lines 32-39). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Fischer with Paatelma, in order to provide a highly desirable system wherein a resource allocation independent from the network architecture and the associated transmission and processing delays. Paatelma teaches a communication unit transmitting first portion of data with first transmission level and second portion of data with second transmission level (col 2 lines 35-41), a processor (see figure 4, controller 18 includes processor, col 4 lines 22-26), to the power adjustment module 18 (the system transmit power, therefore, the controller is power controller module), the processor begins adapted to provide power adjustment information to the power control module 18, and a receiver 16 coupled to the processor 18 (col 4 lines 8-26); a receiver receives over RF link wherein the access point system is coupled to the network (col 2 lines 34-36); a transmitter adapted to transmit data over RF link (col 3 lines 60-67, col 4 lines 1-8), the cellular system is based on Radio Frequency link (RF). Paatelma fails to teach that an access point system in a communication system utilizing an IEEE 802.11 standard comprising: a power control module coupled to the transmitter, the power control module adapted to receive a data packet having a PLCP preamble and PLCP header portion and a data portion dynamically adjust the transmission power of the packet during transmission of the packet, such that the PLCP preamble portion beings. However Fischer teaches a unit that transmits and receives a data packet having a PLCP preamble and PLCP header portion and a data portion dynamically adjust the

transmission power of the packet during transmission of the packet, such that the PLCP preamble portion beings (see figure 1, col 2 lines 61-67, col 3 lines 1-10). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Fischer with Paatelma, in order to provide a flexible interface between a medium access control device and a wireless physical device.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Paatelma teaches a cellular communication unit/method (col 3 lines 60-56). Paatelma does not specifically mention that the unit/method transmits, the first portion of the data packet at a first data rate and the second portion of the data packet at a second data rate, and the power transmission level of a third portion of the data packet with respect to the first and second portions.. However Hassan teaches a unit/method transmits, the first portion of the data packet at a first data rate and the second portion of the data packet at a second data rate (col 2 lines 17-27). Hassan teaches further adjusting the power transmission level of a third portion of the data packet with respect to the first and second portions (col 2 lines 17-27, lines 55-62). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Hassan with Paatelma,

in order to provide a busy tones that indicates a base station is in an overload condition, therefore, improve the performing transmission data rate allocation of a high speed wireless communication network.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Paatelma and Hassan fails to teach a system/unit wherein the data packet conforms to the IEEE 802.11 standard protocol and the first portion of the data is PLCP preamble, the second portion of the data packet is a PLCP header and the third portion of the data packet is a data portion. However Fischer teaches system/unit wherein the data packet conforms to the IEEE 802.11 standard protocol and the first portion of the data is PLCP preamble, the second portion of the data packet is a PLCP header and the third portion of the data packet is a data portion (col 2 lines 61-67, col 3 lines 1-10). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to provide the above teaching of Fischer with the combination of Paatelma and Hassan, in order to prevent the unit from spurious emission of energy that lie outside of the FCC mandated special density envelop, thereby, benefit the unit by passing FCC rule-testing for granting operation license.

### **Conclusion**

**Any responses to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications indented for entry)

**Or:**

(703) 308-6306, (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, Va., sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Melody Mehrpour whose telephone number is (703) 308-7159. The examiner can normally be reached on Monday through Thursday (first week of bi-week) and Monday through Friday (second week of bi-week) from 6:30 a.m. to 5:00 p.m.

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If attempt to reach the examiner are unsuccessful the examiner's supervisor,  
Marsha Banks-Harold be reached (703)305-4379.

NM

May 11, 2004